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Supreme Court, U.S.
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In The
Supreme Court of the United States

BRENDA SMITH,
Petitioner,
V.
HAROLD BAZZEL, BAY
COUNTY CLERK OF COURT,
THOMAS, PRIVATE DEVELOPER and
(in Default) BAY COUNTY COMMISSIONERS,
PROPERTY APPRAISER, DEE DEE COSTELLO,
MICHAEL OVERSTREET, & ANGELA BALI
Respondents

On Petition For A Writ of Certiorari to the
United States Court of Appeals for the 11th Circuit

PETITION FOR WRIT OF CERTIORARI

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Questions Presented:

1. Can you revisit Kelo? Can a government official take property from A (Smith) and give it to B (Miller) developer without just compensation?

2. Do private litigants have the right under RICO 1964(c) to obtain injunctive relief in a civil action in federal court pursuant to 18 U.S.C. 1964, 18 U.S.C. 1951(b)(2) when government officials "obtain property" under "color of official right" by extortion under the Hobbs Act, and are "interfering with interstate commerce".

3. ~~Is it~~ constitutional for the courts to discriminate against an individual and refuse to protect their contract and property rights, because they have different, although equivalent legal training, as lawyers.

4. In every state do we have the right to buy land, develop it, and be given equal protection of law?

Parties to the Proceeding

Petitioner is Brenda Smith. Respondents are Harold Bazzel, Bay County Clerk of Court, and Thomas Miller, private developer.

In Default, Bay County Commissioners. Property appraiser, Dee Dee Costello, Circuit Court Judge acting without jurisdiction and named in her personal capacity, Michael Overstreet, Circuit Court Judge acting without jurisdiction and named in his personal capacity, and Angela Ball, attorney, are in Default.

None of the Petitioners is a corporation.

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- A deed or mortgage to be duly executed, by husband and wife, must be acknowledged, freely and voluntarily. The statutory acknowledgement is part of the due execution of a deed or mortgage. With no acknowledgement it is void as a lien. -	
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Opinions Below

The opinion of the United States Court of Appeals for the Eleventh Circuit, before Judges Carnes, Hull, and Wilson, Jul 22, 2005. (Appendix 2)And, the decision denying Appellant's Motion to reconsider, Judges Carnes, Hull, and Wilson, Aug 18. 2005, is in Petition for Writ of Certiorari (Appendix 1).

The Order of Dismissal of Case No 5:04cv411 by Judge Hinkle on 8 May 2005.. (Appendix 3) Report and Recommendation by Magistrate Sherill, Mar 15, 2005 (Appendix 4)

The Order of Remand 505cv26-RH/WCS, 3d Mar 2005. (Appendix 5). The Order Denying Motion for Reconsideration, Robert L. Hinkle, US District Judge, 10 Mar 2005. (Appendix 6)

Report and Recommendations (Appendix 6) by Magistrate Sherill, Feb 23, 2005.

A single petition covering all Judgments suffices. (Rule 4).

Jurisdiction

The Court of Appeals issued its opinion on 22 July 2005. It denied a timely petition for rehearing on 18 Aug, 2005. The court has jurisdiction, 28 U.S.C. 1254(1), 1331 and 1334. This action arises under the Fifth and Fourteenth Amendment to the United States Constitution, USC 1983. 28 USC 1331(a) which grants the court original jurisdiction of all civil actions arising "under the Constitution, laws, or Treaties of the United States".

STATUTUES INVOLVED

28 U.S.C. 1331, and 1334.This case implicates the just compensation provision of the Takings Clause of the Fifth Amendment to the United States Constitution, and the Clause made applicable to the States by the Fourteenth Amendment.

Fair Debt Collection Practices Act, 6.8.1 "Debtors Acting as Private Attorney Generals". Identity Theft Statue 18 U.S.C. 1028(a). 18 U.S.C. 1951(b)(2) RICO, and the Hobbs Act. The Commerce Clause. 42 U.S.C. 1983. Bankruptcy Reform Act of 1978, 11 U.S.C. 101 et seq.

Federal Rules of Civil Procedure Rule 38, 55, & 54. "Identity Theft & Assumption Deterrence Act".

STATEMENT

A. The Ownership of the Land

Petitioner Brenda Smith purchased the land at 7004 Thomas Drive, Panama City Beach, Florida on 25 Feb 1993. The lot was a vacant lot, 50 feet by 100 feet. See **Appendix A, Warranty Deed** to Brenda Smith 1993.

Petitioner Brenda Smith ("Brenda") is the wife of Jesse Smith ("Jesse"). The sellers of the property are both now deceased.

Since 1993, the Warranty Deed has been recorded in Bay County public records to show the asset is owned by Brenda Smith, and is "homestead".

Development Plans: In 1993 Brenda and **Jesse Smith (her husband)** built a home on the property and filed "homestead". Jesse had retired and the Smiths plans for the investment included operation a small real estate business involved in interstate commerce.

We bought and paid for the land to Mr and Mrs Clark, sellers, as husband and wife. The sellers owned the land in "tenancy by the entireties" by deed. The contract said payment was to go to the Clarks and carried "right of survivorship".

We paid the Clarks "fair market value" for the land and were given credit for the defect of "one half lost land"

In 1996, Brenda learned a lawyer had unlawfully filed a lien on her property with the clerk of court, trying to "over charge" her for the land, with a "bogus lien".

First, the document was not deemed a mortgage since the Lawyer never gave Brenda notice. Florida Statue 697.01. Second, it was never delivered to me. Florida Statue 698.01 Third, the lawyer could not have legally recorded it since it required a notary acknowledgement by Brenda Smith. Brenda had not acknowledged it. Florida Statue 698.02.

This was "homestead property" and federal law required Jesse Smith would have to sign and acknowledge any mortgage. Jesse Smith never acknowledged . Title insurance was involved in the contract and it is mandatory under Florida law funds be disbursed before the lawyer could file a lien on our land. The Smiths were never disbursed any funds to create a lien on the property.

Florida law, 696.01 says "the state shall refuse to accept such record for recording". The phrase is taken directly from the statue "shall refuse to accept it" makes it mandatory the clerk of court refuse the bogus lien filed by the lawyer. We are addressing a mandate.

The Lawyer had typed on it, altered it, and added a notary acknowledgment that did not go with it, attempting to strip Brenda of her contract and property rights.

Brenda asked the clerk of court to "purge" the "bogus lien" from public records. Mr Bazzel said "no".

Here is where the beginning of a "campaign of disinformation" began by the clerk of court, Mr Bazzell. Under Florida Statue 634.02 Uttering Forged Documents it is a crime to publish as true a "false, forged or altered record, deed - knowing the same to be false - with the intent to injure any person - a felony."

Brenda filed a complaint with the state notary division and the findings were the notary acknowledgement was bogus. The person alleged to have acknowledged the mortgage did not even sign it. Brenda was paid the notary bond after proving the document was bogus.

The lawyer had "forged" a lien and made illegal use of the mail by sending it to the clerk of court's office secretly and asking for it be returned to him.

The lawyer was given favoritism by the clerk of court in allowing him to file a bogus document, and ignoring the law Florida legislature had passed saying the records keeper would refuse to accept.

Brenda fell on hard times, filed Chapter 7 bankruptcy in 1998. During the bankruptcy she proved by contract, appraisal, and receipts she had "paid in full" for the land.

The female surviving spouse was noticed and did not object to the bankruptcy discharge as "homestead exempt" "no secured liens'.

Taylor vs. Freeland & Kronz, No 91-571, 21 Apr 1992, U.S. Supreme Court. The land is still "homestead exempt".

Mr Clark had deceased in 1995 and under the contract and tenancy by the entireties all rights went to the Mrs Clark, surviving spouse.

During Mr Clark's Probate there were no claims from Mr Clark's estate on the Smith's property. During the 90 day period following Mr Clark's death there were no claims from any heirs alleging they had a claim on Brenda's property. Therefore, under state and federal law any claims on Brenda's property relating to Mr Clark's rights would be "time barred" and "dismissed".

NationsBank did not represent Mrs Clark. See **Appendix E** - Mrs Clark's deposition under oath.

In bankruptcy, NationsBank filed an adversarial proceeding and claim. Brenda objected to the claim pleading an affirmative defense. She also asserted a counter-claim accusing the lawyers of forgery, fraud, and trying to gain control of the surviving spouse and her contract and property rights.

The **bankruptcy discharge** was granted 22 June 1998 as "**homestead exempt**" "**no secured lien**". See **Appendix B - Bankruptcy discharge**. During all these years Brenda was assessed and paid for the property taxes on the land.

The all male bank's lawyers were discriminating against women - a 17th Century approach to women's civil rights. All rights in the property went to the female spouse.

The land the Smiths purchased was located next door to a small shopping center. We had our home and we lived in our home and operated a small business. This was our "homestead" and everything we worked for all our lives.

Florida Statue 95.12 Real Property Actions. "No action to recover real property or it's possession shall be maintained unless the person seeking recovery ...was seized or possessed within 7 years before commencement of the action."

The Smiths had owned the land for seven years and any claims/defenses were "time barred" on 25 Feb 2000. The court's jurisdiction had ended 25 Feb 2000.

The document, the Warranty Deed, that established Brenda Smith's ownership of the lot on the island of Panama City Beach, and clear title to the land forever.

14 Feb 2001 Brenda was given a "Default Judgment" on Amended Counterclaims, Case 97-3063, her favor, litigating the lawyers were "forging documents", had no standing, and were engaged in "fraud upon the court". **See Appendix C - Default Judgment, Brenda's favor, Case 97-3063, signed Clerk of Court..**

There was no appeal filed within 30 days or motion for rehearing. Florida Supreme Court said in Austin Tupler Inc vs. Hawkins (AFO 88-40) Sep 1988, 377 So. 2d (Fla 1978) the order is final and cannot be changed or modified.

The Default Judgment required compensation be paid to Brenda and Jesse Smith and we took action to collect as required under the civil theft statue by sending a certified letter to the CEO of NationsBank now Bank of America.

The fair market value of our land was reduced as a result of the restrictions placed on the land by the clerk of court allowing the lawyers to file "bogus liens" Florida law says he will refuse to accept. The power of repetition can effectively obfuscate the truth.

The Default Judgment's remedy was the clerk of court would purge from public records the "bogus documents". Brenda was entitled to "writ of execution" by the Bay County Clerk of Court. Mr Bazzell refused to perform his ministerial duties or issue the writ.

Brenda's Warranty Deed is not transferable - and it was only useful to Brenda and Jesse Smith. The document, Warranty Deed, established Brenda's ownership on the island of Panama City Beach Florida, essentially giving her and her descendants clear title to the land forever.

Around May 2004 Brenda saw on the internet where the Bay County Clerk of Court and a developer Thomas Miller attempted to take control, snatch Brenda's land for nothing, by posting "bogus documents" on the internet..

(**Appendix F Identity Theft**) alleged Grantor Brenda Taylor-Smith (CLERK OF CT) sold her land for $70,000 to private individuals. Brenda did not sell her land to anyone.

Mr Bazzell, clerk of court took an oath to abide by the laws of the state of Florida and the Constitution. Here is the Florida law taken directly from the statue.

Florida Statue 95.12 Real Property Actions: "No action to recover real property or it's possession shall be maintained unless the person seeking recovery... was seized or possessed within 7 years before commencement of the action."

Appendix A - Warranty Deed to Brenda Smith dated 25 Feb 1993 - showed Brenda had owned the land for the past 7 years - in fact for the past 11 years.

The court had no jurisdiction over Brenda's property. The judiciary is the government. The government had no right to deed my property to private individuals without my consent, and without just compensation.

But just like the "mafia" Mr Bazzell and Mr Miller developed a system "outside the law" where "they made up their own laws" - in the "illegal takings of Brenda's property.

The clerk of court used public records, the magic hand, (DOF) Designated Office Forger, used "Brenda's name" "without her consent" in connection with unlawful activity that constitutes a violation of federal law and constitutes a felony under state law.

Identity Theft and Assumption Deterrance Act, 18 U.S.C. 1028 says this is a federal crime.

Brenda and Jesse Smith did not sell their land to anybody. Brenda did not receive $70,000 from anybody. The clerk of the court did not have consent to use her name.

(**Appendix F - Fraud**) Miller "combined" Brenda's land with his land on a government computer on 1 Apr 2004..At the time Mr Miller "combined" Brenda's land with his land, public records in the property appraiser's office showed Brenda owned her land. (**Appendix G Brenda owns the land (29 May 04).**

Brenda and Jesse Smith land is worth approximately $700,000. The forged documents meant a pot full of money changed hands. Brenda's equity in the property and the property was worth a lot of money. A lot of money was at stake here, potentially which surely multiplied the danger of an "illegal takings of property rights".

Thomas Miller, developer had purchased an old Shopping Center next door to the Smith's property at 7006 Thomas Drive knowing it did not have enough parking spaces for "high use development". Miller did not purchase the Smith's land but he needed it for parking.

The property records showed Brenda Smith owned the land long after. **See Appendix G - Tax Collectors Office 15 Oct 2004.** Mr Bazzell "alleged public sale" of Brenda's land 07-18-2003. The "alleged public sale" was canceled 07-19-2003.. The clerk of court is trying to "snatch up a property worth $700,000 for zero compensation".

In Kelo vs. New London the U.S. Supreme Court said the government cannot take property from A and give it to B without just compensation. There is all kinds of legal precedence to support that.

Brenda's husband is retired - this was our home and property and investment to supplement our income. This doesn't seen like much money but it was everything we had for our life long working and to live out of lives.

Negotiating and buying this property took every penny we had for the "location" so that we could develop it. We don't understand how this can happen with no ability to fight this. We ask the court to help us.

The average citizen does not have thousands of dollars to fight lawyers when they become a victim of these types of crimes. The government shouldn't be allowed to blatantly take someone's property and give it to private individuals for greed and profit.

It was our fair shot at the American dream. We continue fighting because we are too old to start over again. And there is something in our heart that cries out for justice

When the government comes in and take your land without just compensation by using your name, without your consent - we know this can not be happening in America.

Since Kelo - municipalities and developers have gone too far. In the public's interest - the court needs to revisit Kelo vs. New London in this case.

Do private litigants have the right under RICO 1964(c) to obtain injunctive relief in a civil action in federal court Pursuant to 18 U.S.C. 1964, 18 U.S.C. 1951(b)(2) when government officials "obtain property" under "color of official right" by extortion under the Hobbs Act and are "interfering with interstate commerce"?

The district court's De Novo Review (or not). Under the US Constitution judges can't take away the laws Congress gave us to defend our property rights?

The court did not treat the Default Judgment on Amended Counterclaims, Brenda's favor, as final under Rooker Feldman. The defendants are clearly violating the bankruptcy discharge on "homestead exempt" "no secured claims" on Brenda's property.

Petitioner had sought an injunction that defendants are not permitted under the Fifth Amendment, RICO, Fourteenth Amendment, the Hobbs Act to interfere with Petitioner's control of her own property rights.

The court had jurisdiction since Brenda's action arises under the Fifth Amendment and Fourteenth Amendment to the U.S. Constitution USC 1983 which permits causes of action for deprivation of federal rights against officials acting under color of state law.. 28 USC 2201-2202 which permit's a party to seek, and this Court to grant "necessary or proper relief". 28 USC 1331(a) which grants this court original jurisdiction of all civil actions arising under the Constitution, laws and treaties of the United States

There has been no hearing by the court- not even one. No adjudication after listening to key witnesses - Brenda was never given the opportunity for a hearing or to present key witnesses. It is an "extraordinary thing" for him to claim I could not bring a claim in federal court. - That's just not the way our system works.

Here is what the federal court did. Brenda filed a civil action in federal court, Case No: 5:04-cv-0041-RH-wcs. Rule 1. "There shall be a complaint and an answer"

Brenda filed a legally sufficient complaint under Rule 8 and 10. Attorney Ball was served and did not answer.

Rule 8(d) the allegations are admitted when not denied. See docket 10 Brenda asked for a Default Judgment against Attorney Ball.

Brenda is entitled to a Default Judgment. Defendants have misappropriated Brenda's property and given illegal possession to Thomas Miller by racketeering.

They always seem to win. Something weird is going on here One, here is what Judge Hinkle did. He told Brenda she had to refile the complaint on a form that said she was "non prisoner" and limit it to 15 pages. That is not in the federal rules.

Two, he dismissed the complaint. When he dismissed the complaint he did not send Brenda a copy so that she could object. Under federal rules he had no right to dismiss. A jury was to decide the facts in this case.

WHY THE COURT SHOULD ISSUE THE WRIT

The federal court has original jurisdiction over Case 5:05cv00026 and Case 5:04cv411 that concerned a renegade government agency trying to restrain and interfere with the Smith's property rights involved in interstate commerce.

In Case 5:04-cv-411-Rh the records show a complaint was served and the parties did not answer. This court in Heinz vs. Jenkins ruled a lawyer who engages in debt collection of debts can be sued for misrepresenting a debt if they don't mechanism for correcting a mistake.

The federal rules say Brenda is entitled to Default Judgment against attorney Ball. Brenda served the original complaint, that was legally sufficient, and did not serve and withdrew the amended complaint where the magistrate alleged I had to file on a form saying I was a non-prisoner and limit it to 15 pages Attorney Ball did not answer, I asked for Default.

Appendix M shows attorney Ball withdrew any objections to the bankruptcy discharge after the alleged public sale was canceled due to her not depositing funds in the clerk's registry the next day. Fla. Stat. 45.031(2).

Brenda had moved to federal bankruptcy court to "avoid any judicial lien or public sale" pursuant to 11 USC 522(f)(2) the would be exempt but for the judicial lien.

Brenda issued a subpoena requiring attorney Ball to produce a lien giving her the rights to foreclose and evidence the Smiths had ever been disbursed any funds to create a lien. Ball could not produce a lien and that proved misrepresentation.

Ball corrected the mistake Appendix M - by withdrawing the bank's objections to the bankruptcy discharge "homestead exempt" "no secured liens".

Five months later, in secret, Ball went to the clerk of court's office and had him issue an "illegal certificate of title" to private individuals. (without title)

In secret, eight individuals engaged in mail fraud by sending a deed across state lines to sign alleging they had the right to sell Brenda's land "free and clear" to Miller.

In secret, a Warranty Deed, was given to Miller and he went to the Property Appraiser's office and "combined" his land with Brenda's land, so now he could be assessed and pay taxes on her land. (a step required in Adverse Possession) Appendix H..

1990 Sunshine in Litigation Act (anti-secrecy law) prohibit the state court judges from entering orders that conceal a public hazard or information about a public hazard.

The defects in the lawsuit and documents conceal Miller, developer, is taking all the steps to obtain the Smith's land by "adverse possession" Appendix D.

Is it constitutional for the courts to discriminate against an individual and refuse to protect their contract and property rights, because they have different, although equivalent legal training, as lawyers?

Discrimination affects interstate commerce

Brenda was served with Declaratory Action litigation Brenda asked the judge to have the bank post one million dollars bond since the bank did not have a "duly recorded instrument" or dismiss the case. The court "denied" Brenda Smith, female real estate broker, equal protection.

This was the policy within the 14th Judicial Circuit. Don Nations, male real estate broker, was given this relief. See Gerald R. Dunkel and Elmer Cook vs. Donald F. Nations, Case No. 86-399222, Bay County Florida, 22 Sep 1986.
The policy in the Don Nation's case was the court ruled: "Defendant will suffer irreparable injury if the lis pendens herein is wrongfully continued in effect". The parties did not post one million dollars bond and the case was dismissed.

Brenda was denied the same relief. A spectrum of right and wrong must be confronted by the court.

Earl Durden vs. Bay Point Association, DCA 01-17-25 Feb 2003, the case was dismissed in 6 days by 1st DCA. The 14th Judicial circuit dismissed the case filed against Joe Chapman's property since the parties never owned property and were third parties not a part of the contract. and did not have "standing"

The same 14th Judicial Judge denied Brenda the same relief on her property "the parties had no standing". The 1st DCA dismisses every appeal since Bazzell will not forward the records (twice).The last time Brenda asked. 1st DCA to forward to Florida Supreme Court for Writ of Mandamus. 1st DCA kept the $350 and dismissed.

"Stare Decisis" Heinz v. Jenkins, No 94-367, U.S. Supreme Court, April 18, 1995 says Brenda can bring action against lawyer Ball under Fair Debt Collections Practices Act - I am entitled to Default Judgment in federal Court - government officials stand by and say I cannot while the developer is on my property illegally

The Default Judgment on Amended Counterclaims, Case 97-3063-CA, Brenda's favor is the <u>final state court.</u>

In July 2003 the clerk of court put in public records 10/28/1997 REAL PROPERTY/MORTGAGE FORECLOSURE, Case 97-3063. Brenda was never foreclosed on in 1997 or served with foreclosure. For $40.00 he gave Brenda's property worth $700,000 to attorney Ball. **See Appendix D - there was no lien on the property.**

Can an individual sue a state official in federal court when the suit seeks the official comply with federal Bankruptcy discharge?

In secret, the government officials are refusing to correct he mistake to give Miller, developer, the Smith's land worth $700,000 for zero compensation, denying her possession and stopping development, and interfering with a small business in interstate commerce. Appendix I, Appendix J, Appendix B, Appendix M.

The district court judge and magistrate are "stonewalling" issuing the default judgment Brenda is entitled to in federal court to "whitewash" the illegal takings of the Smith's property rights.

The 11th Circuit decision did not correct the dismissal of Case 5:04cv-411 or explain why the Default Judgment was not entered.

In secrecy, the order of dismissal was entered in federal court, no copy sent to Brenda, so she did not object. However, when she found it she amended the appeal.

The 11th Circuit decision did not explain where under the US Constitution it gave them jurisdiction to "ignore" the laws passed by Congress giving Brenda the right under RICO, Fair Debt Collections Practices Act, bankruptcy law and the Constitution to deny her remedy in Federal court.

There was no address of any person who had a lien on Brenda and Jesse Smith's property on the alleged foreclosure order attorney Ball attempted to use.

*Stare Decisis" Three different appellate courts have now Ruled that the requirement that the judgment contain the address of the person holding the judgment is Mandatory, and failure to include this information resulted in the recorded judgment not becoming a lien.. Robinson v. Sterling Door & Window Company decided by the First District Court of Appeals on July 21, 1997 (698 So. 2d 570, Holt Interiors, Inc v. Fostock decided by the Fourth District Court of Appeal on Dec 23, 1998 (721 So. 2d 1236) and to the unpublished opinion in the case of Decubellis v. Ritchotte decided by the Fifth District Court of Appeal on February 5, 1999 (1999 WL 49362).

Case No: 05-0002CV RH-wcs, Harold Bazzel, etc. District Court, Northern District of Florida (Panama City), Nature of the Suit: 470 Racketeer Corrupt Organizaion, Jurisdiction Federal Question.

In order to file a RICO case there must be two indictable offenses in federal law. First offense, "identity theft" of Brenda and Jesse Smith's name, Chapter 47 of title 18, US Code, 003 Identity Theft (to facilitate the victim's correction of false records) (**Appendix I**) is Jesse's ID Theft notice.

Second, mail fraud, over and over again. In the bankruptcy court Brenda proved by contract, appraisal, and receipts she had paid for her land in full - without objection from the Seller, surviving spouse. Defendants are trying to charge Brenda an "amount not authorized by the contract agreement" and "overcharge" her for the land.

Federal Right. Section 1983 makes actionable the deprivation of "any rights, privileges, or immunities secured by the Constitution and laws".

Stare Decisis US Bankruptcy Court, Middle District of Florida, Orlando Division, Claude & Anne Glover, Case 00-06680-6B3, 31 July 2001. "A judicial lien may be avoided pursuant to 11 U.S.C. 522(f)(1)(A)"

The Bankruptcy Code and Rules are silent as to any particular time constraints for raising lien avoidance. Brenda's homestead exemption property squarely falls within the requirements of 11 U.S.C. 522(f)(1)(A).

The federal court alleges "state jurisdiciton". 11th Circuit says it is "frivolous" fighting for federal jurisdiction. A takings has occurred and an intention to permanently deprive the Smiths of their property.

The federal cases were being kicked out on judge's inclination to make up rules. The court needs to resolve the conflict within the circuits. The attorneys don't know the law any better than the judges, and the ship is completely adrift.

Can an individual citizen sue government officials in federal court who are corrupt and act without jurisdiction and ignore the law and US Constitution?

The court needs to look at the enomorous blow to property rights in this case. Brenda and her husband lived on the land and got used to that environment

Location is important to a small business involved in interstate commerce. Kelo changed the meaning of "public use" and private development not founded in the Constitution. The overreach by the courts has harmed me.

The 11th Circuit Court order alleging Brenda's appeal is frivolous by fighting for federal jurisdiction. This is an overreach..

The impact of the court's failure to correct the wrongs on appeal means the ID theft thieves are still in control of my property. And, if the Supreme Court does not take my case and correct the wrongs, Brenda could lose it.

The impact of the court's failure to correct the wrongs would change the intent of the Fair Debt Collections Practices Act from giving citizens the right to act as private attorney generals to seek remedy from abusive debt collections practices - to having no rights at all.

Corruption empowers, they say, absolute corruption empowers absolutely. I ask the court to recognize how the legal system has gotten to out of hand.

The report by the district court magistrate in the Case5:05cv26 is a tactic to circumvent the law. The magistrate alleged attorney Ball was in legitimate representation. The facts show attorney Ball is abusing the legal system and legal ethics in misrepresenting a debt, and "obtained control" of Brenda's land by extortion giving Brenda jurisdiction in federal court. Injunction under RICO, Hobbs Act, FDCPA

The magistrate alleges under Rooker Feldman the court has no jurisdiction. This is conduct to suppress evidence Brenda suffered 5 years of litigation hell and fighting five attorneys before she was given the Default Judgment of Amended Counterclaims, her favor, Case 97-3063, 14th Judicial Circuit Appendix C. The federal Court must accept this under Rooker Feldman.

Suing and being sued are bankrupting events. The bankruptcy discharge litigated Brenda's land was "homestead exempt" "no secured liens". The district court and 11th circuit distorted the facts beyond recognition to take away the Smith's property rights.

Bankruptcy law is federal law and the state court has no jurisdiction. (Justice Breyer, Anna Nichole case). We are people being cheated out of our property rights and have a right to "trial by jury" in federal court. I am injured and outraged by the abuse going on in the justice system A jury would be outraged as well.

Appendix L - Florida law on adverse possession does not apply to "stolen property" obtained by RICO.

Appendix K showing evidence of a "renegade government agency" that is effectively restraining and interfering with Brenda's control of her own property falls under the Hobbs Act and RICO and she is entitled to an injunction to stop it in federal court.

Furthermore, Jesse Smith, male, elderly, and without a lawyer had the right to retire in Florida, buy property, make an investement, and develop it, and be given equal protection of the laws, as well.

The Smiths had the right of "privacy" and to be let alone. 12 C.F.R. 202-2 federal law requires the use of jointly owned property as collateral to have the signature of joint owners.

When Jesse Smith did not sign anything and was never served with anything alleging he owed a debt - the court had no jurisdiction to enter an order alleging he owed a mortgage and could be foreclosed on and harm his credit rating.

When Brenda Smith's contract included title insurance and Florida Statue 627.7841 "mandates" funds be disbursed prior to the recording of a mortgage, and she has received no funds to create a debt - county officials must abide by the mandate.

Conclusion

The court has the power to strike down the Florida law procedures Mr Bazzell and Mr Miller are trying to apply on adverse possession because it is unconstitutional.

The free-market principles that drive our market-based economy rely on one's ability to use, own, and derive profit from the use of private property.

> Requiring property owners to surmount the obstacle of costly and time-consuming state court litigation presents the risk that the Fifth Amendment will be treated like a "poor relation" among Constitutional guarantees in Federal courts. Dolan v. City of Tigard, 512 U.S.at 372.

11 Feb 2001 Brenda received a Default Judgment on Amended Counterclaims, Case No 97-3063, her favor, recorded and attached, signed by Clerk of Court's office.

Out of vindictiveness over the administration of justice Mr Bazzell refused to enter a Writ of Execution. 29 April 2001 the cedar sand blasted real estate sign that had been on Brenda's land for years was stolen off the property.

The real estate sign was used in interstate commerce. Florida Statue 895.03 Prohibited activities and crimes makes it unlawful for that person to receive property from racketeering activity. They don't get to keep my land.

Thereafter lawyer Ball tried to foreclose on our land misrepresenting a debt attempting to "extort" money and property from the Smiths. U.S. Supreme Court, Heintz v. Jenkins, No 94-367, Apr 18, 1995. Brenda had the right to file a new action against lawyer Ball for another violation of the FDCPA and RICO - in federal court.

Five months after what was proven to be "not a foreclosure sale" was canceled, Lawyer Ball conspired with the clerk of court to give private individuals an illegal certificate of title.

In federal bankruptcy court, Lawyer Ball was served with a subpoena to produce any mortgage, or evidence the Smiths had received any funds to create a debt. She could not. Ball gave a letter to the federal court "withdrawing any objections to "homestead exempt" "no secured Liens".

The clerk of court by issuing a certificate of title knowing the sale was canceled under Florida Statue 45.031 (2) since no payment was made in the Clerk's registry was fraudulently altering the results of the public sale.

The "obtaining of Brenda's property" met the requirement under the Hobbs Act and 18 U.S.C. 1964 of the Racketeer Influenced and Corrupt Organizations Act.

In the administration of justice, no opinion of judges can be final and decisive, but the same may be removed before the highest tribunal, or revision, where erroneous, it will be rectified.

The certificate of title and Warranty Deed given to Mr Miller is radically defective and faulty; that fraud is apparent on the face of it. This was an alteration of Brenda Smith's Warranty Deed title, done after execution of the Warranty Deed to Brenda Smith by the sellers in 1993. without Brenda's consent is "void and of no effect". In legal estimation, trespassers and intruders. The consequence is "Miller derives no title".

The right to a "trial by jury" is a fundamental right. The duty of the court is to adhere to the Constitution. It is not Constitutional for a county official to authorize or excuse the seizing of landed property belonging to one citizen, and giving it to another. The constitution directs A would receive compensation for the land. The Smiths (A) have received zero compensation.

True it is, that land may be by compensation, but then it must be at the election of the party, it cannot be forced on him/her. His/her consent will legalize the act, and make it valid. The Smiths have not consented to sell our land to private individuals or Mr Miller.

The court must place Brenda back on her original ground. Petitioner's title and Warranty Deed meet the requirements of Florida law, the contract, and without Brenda's consent, Miller's Warranty Deed could convey no right, without that, it is fraudulent and void. Petitioner, by law, is entitled to recover the premises in question.

WHEREFORE, Case 5:04cv-0041-RH-WCS, Docket entry10, shows Brenda is entitled to Default Judgment against attorney Ball. I ask the court to direct the federal court to enter the Default Judgment and hold jury trial to determine damages.

Case 5:05cv-00026-RH-wcs I ask the court to direct the lower court enter an injunction against Mr Bazzell and Mr Miller to remove the identity theft documents and return her property to her. And to hold trial by jury to determine damages the clerk of court or Mr Bazzell and Mr Miller owe Brenda for the illegal takings and time she had lost control of her property.

The court needs to overturn the orders below, they went too far. Reference Appendix 1 and 2, 11th Circuit Opinion basically alleging plaintiff did not show reason she had a right to be in federal court and it is "frivolous" for her to appeal that right.

Congress gave Brenda the right to be in federal court under 15 U.S.C. 1692k 813(d) Fair Debt Collections Practices Act "An action to enforce any liability created by this title may be brought in any appropriate United States District court". Under the U.S. Constitution the court has no right to review the law made by the US Congress.

Congress gave Brenda the right to be in federal court to determine first, whether defendants committed extortion within the meaning of the Hobbs Act, 18 U.S.C. 1951.

Second, whether petitioner, as private litigants, may obtain injunctive relief in a civil action pursuant to 18 U.S.C. 1964 of the Racketeer Influenced and Corrupt Organizations Act (RICO) when defendants "obtain control" of property. The court has no jurisdiction to review that.

The two federal actions arises under RICO, the Hobbs Act, the Fifth Amendment, an Fourteenth Amendment to the United States Constitution USC 1983 which permits causes of action for the deprivation of federal rights against officials acting under color of state law, and 28 USC 1331(a), which grants this Court original jurisdiction of all civil actions arising "under the Constitution, and laws of the United States." And, federal bankruptcy law.

Therefore, for the 11th Circuit to allege my appeal is frivolous by "ignoring the laws passed by Congress" show "willful disregard of my human rights, safety, and property".

The lawyers get everything they want. The judges are incapable of discharging judicial duties free from bias or prejudice. These orders destroyed the legitimacy of the court and the "appearance of impartiality" expected of federal judges.

Appendix 3, Order of Dismissal by the district court should be overturned as it went too far. Brenda did not object to the order because the court did not send her a Copy - I found it on the court's computer when I was filing papers on appeal. Brenda amended to include it on appeal.

Judge Hinkle should voluntarily recuse himself from this case. He presented legal conclusions, like, Brenda was the "loser" in state court. Brenda was not the loser in state court. Appendix C, Default Judgment on Amended Counterclaims, Case 97-3063-CA, 14 Feb 2001, recorded and attached, Bay County Clerk of Court s/.

His "legal conclusions" "in strong terms" demonstrate bias. Judge Hinkle held no hearing, no pre trial conference, and set no discovery schedule.

Brenda filed a legally sufficient complaint, see docket 1 filed 12/02/2004. The complaint was served and Judge Hinkle and the magistrate told Brenda she had to amend using a form alleging she was a non-prisoner and limit it to 15 pages.

At first, Brenda amended, but did not serve it, advising the court, the original complaint was legally sufficient and had been served and she withdrew the amended complaint.

The summons were issued on the original complaint. See docket 12, Brenda's motion for default against attorney Ball entered 11/20/2005.

The district court and the magistrate resist disclosure of damaging information under Rooker-Feldman doctrine. Brenda asked in her original complaint for the court to recognize the Default Judgment, her favor, Case 97-3063 under Rooker-Feldman.

There were no judgments on these parties in state court except against Attorney Ball which was in Brenda's favor. These were new federal claims and new parties.

As of 25 Feb 2000 the 14th Judicial Circuit had no jurisdiction over this property, no discretion, to file any orders. The judge would be acting "with clear absence of jurisdiction.". As of 14 Feb 2001, Default Judgment, Brenda's favor, it was litigated the parties had "no standing".

A "void judgment" creates no binding obligations on the parties (and) is legally ineffective and is a nullity". In Wigham v. Wigham, 464 So. 2d 674 (Fla. 5th DCA 1985, When the parties have "no standing" a final judgment is void from the outset, the requirement to file an appeal within 30 days of the rendition of the final judgment does not apply. The magistrate's order alleging Brenda has to appeal in state court is not correct.

In this case Brenda demanded "trial by jury". Federal rule 30a preserves Brenda's right to jury trial. Justice Burton S. Katz, former Prosecutor. A jury will decide the facts - not a Judge or a magistrate. The case cannot be dismissed.

"Jury trial is the buffer against corrupt judges. The jury can do what no other body can do, namely refuse to follow a bad, stupid, and oppressive law, or to show mercy where unwise and mean spirited people have not".

In the US District Court Central District of California Western Div., Marina Point Development vs. Robin Eliason, Etc, Case EDCV04-1387R/VV the case was filed, same format and similar issues as Brenda's case, and demanded Jury trial. That case went forward without obstruction. Brenda is entitled to the same treatment by the court. The court must overturn to keep federal courts uniform.

The U.S. Supreme Court in Heintz v. Jenkins, No. 94-367, Apr 18, 1995 gave citizens the right to go to federal Court under Fair Debt Collections Practices Act, against Lawyers acting as debt collectors making false and misleading representations and engage in unfair practices.

The lower courts Judges cannot impose their views of what the law ought to be (Justice Scalia). It is true Brenda received a Default Judgment, Case 97-3063, in state court litigating Ball was violating the FDCPA.

Each act is a new cause of action, and when she "obtained control" of Brenda's property by paying $40.00 and making false statements, and then tried to extort a $700,000 property in conspiracy with public officials - That was a new ballgame - under the Hobbs Act and RICO.

The lower courts have lost sight of the impact of their conduct on the administration of justice. Active liberty recognizes the Constitution sets limits on official power "it ensures the rights of citizens to shape the workings of Govt. If people don't participate, the country can't work".

Public trust in the court is not going to be there unless the courts are open to scrutiny. The courts are immunizing Defendants. Actions cause grave harm to individuals,

Brenda never signed away her right to "trial by jury" a fundamental constitutional right for access to justice. Defendants are holding my property for cash, to extort and give it or sell it to a third party, without our consent or just compensation. This is a "takings".

Brenda has been forced to defend her property rights because of the unconstitutional infringement by government. The Smiths, small business don't have funds to fight back

The courts have gone too far. The court needs to revisit Kelo. The renegade assault on Brenda's property has been extraordinarily successful even though they had no legal standing to sign off on my land. There is a document, Brenda's deed, giving her clear title to the land forever

I ask the Supreme Court to uphold my title and ownership and restore what was unlawfully taken.

Brenda Smith

Brenda Smith
PO Box 15453
Panama City, Fl 32406
(850) 234-9828

Appendix

Appendix 1 - 11th Circuit Order denying Motion
Appendix 2 - 11th Circuit dismissing appeal
Appendix 3 - District Court dismisses case
Appendix 4 - Report by Magistrate
Appendix 5 - District Court Order of Remand
Appendix 6 - District Court Order denying motion and magistrate report
Appendix A - Warranty Deed 1993 to Brenda
Appendix B - Bankruptcy Discharge w/schedule "homestead exempt" "no liens"
Appendix C - Default Judgment Brenda's favor "bank has no standing, no lien"
Appendix D - Affidavit by title co. "no liens" executed or recorded by Smiths
Appendix E - Seller "bank does not represent me"
Appendix F - Evidence of "ID theft" "Brenda's name"
Appendix G - Evidence Brenda owns the land
Appendix H - Witness "will not let her pay taxes"
Appendix I - Evidence of "ID Theft"
Appendix J - Miller's statements (video depo)
Appendix K - Bazzel's statements (video depo)
Appendix L - Adverse Possession Law
Appendix M - Bank withdraws claims

APPENDIX 1

In the United States Court of Appeals for the 11th Circuit
05-111972-FF
Brenda Smith, Plaintiff-Appellant
Versus
Harold Bazzel, Thomas Miller, Defendants-Appellees
On Appeal from the United States District Court for the Northern District of Florida
Before: Birch, Dubina, and Wilson, Circuit Judges
By the Court:
Appellant's 'Motion to Reconsider, Vacate, or Modify Order that Dismisses" this Appeal is denied."
Seal of the Court, 18 Aug 2005.
No s/

APPENDIX 2

In the United States Court of Appeals for the 11th Circuit
05-111972-FF
Brenda Smith, Plaintiff-Appellant
Versus
Harold Bazzel, Thomas Miller, Defendants-Appellees
On Appeal from the United States District Court for the Northern District of Florida
Before: Carnes, Hull and Wilson, Circuit Judges
By the Court:
As nothing in Appellant's brief explains how the district court erred in ruling that a plaintiff may not remove an action from state court pursuant to 28 U.S.C. 1441, the Court, on it's own motion, DISMISSES, this appeal as frivolous pursuant to 11th Circuit rule 42-4.
Appellant's motion to supplement the record is denied as moot.
Seal of the Court, 22 July 2005.
No s/

APPENDIX 3

In the United States Court District Court for the Northern District of Florida Panama City Division
Case No: 5:04cv411-RH/wcs
Brenda Smith, Plaintiff
V.
Bay County, Florida, et al., Defendants
Order of Dismissal

This matter is before the court on the Magistrate Judge's Report and Recommendation (document 17), to which no objections have been filed. The Report and Recommendation is correct and will be adopted as the opinion of the court, with additional note.

After issuance of the Report and Recommendation, the Supreme Court rendered its decision in Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 125 S. Ct. 1517 (2005). There the Court clarified the scope of the Rooker-Feldman doctrine:

The Rooker-Feldman doctrine, we hold today, is confined to cases of the kind from which the doctrine acquired its name; cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments. Id. At 1521-22.

While plaintiff's amended complaint in the case at bar is hardly a model of clarity, it includes the following relevant accusations; that an "illegal certificate of title" was issued. (Amended Compl. (document 16) at 3);that defendants" use(d) the judiciary for a toold of extortion," id. at 4; that the defendant judge conspired with the defendant lawyer to effect the public sale of plaintiff's land, id at 5; and that, after the allegedly illegal acts by defendants, a third party took possession of plaintiff's land on May 27, 2004, id at 9. Plaintiff also references a Bay County Circuit Court Case 97-3063-CA. Id at 5.

To the extent that plaintiff seeks to reverse a judgment entered against her by the Bay County Circuit Court, her efforts are barred by Rooker-Feldman. It seems obvious from the face of the complaint, and from her description of the procedural history of the case, that indeed plaintiff seeks Federal review of the outcome of the state court litigation. Plaintiff's claims also are deficient in the additional respects Identified in the Report and Recommendation. [3]

1. The only additional clarification is that, in appropriate circumstances, a private person may of course be held liable under 1983 if he or she acts in concert with a state official. I do not adopt or rely upon the Report and Recommendation to the extent, if any, that it could be read to suggest otherwise.

For these reasons, it is ordered: The Report and Recommendations is ACCEPTED and adopted as the opinion of the court. The clerk shall enter judgment stating. "Plaintiff's claims are dismissed." The clerk shall close the file. So Ordered this 8th day of May, 2005.

S/Robert L. Hinkle
Chief United States District Judge

Case No 5:04cv411/RH/wcs

APPENDIX 4

In the United States Court District Court for the Northern District of Florida Panama City Division
Case No: 5:04cv411-RH/wcs
Brenda Smith, Plaintiff
V.
Bay County, Florida, et al., Defendants
Report and Recommendation

Plaintiff, proceeding pro se, has filed an amended complaint alleging numerous claims. Doc. 16. Plaintiff's amended complaint presents allegations which would appear to be intermingles with a state court case, case number 97-3063-CA, at 5. At the heart of this issue is a public sale of Plaintiff's property. Plaintiff's defense that her property was Homestead and protected by bankruptcy proceedings, and a claim that one of the named Defendants falsely entered into Bay County public records that Plaintiff sold her land to another individual. Doc. 16. Plaintiff complains that an individual who is not a party to this case has trespassed on Plaintiff's land, destroyed part of the property, and that property h as been taken by the County without just compensation. Plaintiff contends that the Clerk of Court Committed negligence, that an "illegal certificate of title" was issued, and that Plaintiff's property was wrongfully taken through "an improper use of the judiciary." id.

To that end, Plaintiff contends that Defendant Judge Costello improperly held a hearing even though Plaintiff objected and told the state court that Plaintiff had moved the case to federal court. Id. Though this proceeding, Plaintiff seeks to stop the taking of property she contends is hers, to be compensated for that taking, and contends that Defendant Ball is liable to her for violating the Fair Debt Practices Act in bringing a lawsuit against Plaintiff in state court in which Defendant Ball sought "money not authorized by the contract". Id

It is evident that Plaintiff's claims involve various proceedings which occurred in state court. This Court does not have jurisdiction to either review those various court proceedings or reverse judgments which were entered. Because any relief in this suit would necessarily challenge the judgment of a circuit court, or at least decisions of circuit court judges, this action is barred by the Rooker-Feldman doctrine.

The Rooker-Feldman doctrine places limits on the subject matter jurisdiction of federal district courts and courts of appeal over certain matters related to previous State court litigation. See Rooker v. Fidelity Trust Co. 263 U.S. 413, 415-16, 44 S. Ct. 149, 150, 68 L. Ed. 362 (1923), District Court of Columbia Court of Appeals vs. Feldman, 460 U.S. 462, 476-82, 103 S. Ct. 1303, 1311-15, 75 L.Ed. 2d 206 (1983). We have described the Rooker-Feldman doctrine as follows:

The Rooker-Feldman doctrine provides that federal courts, other than the United States Supreme Court, have no authority to review the final judgments of state courts. The doctrine extends not only to constitutional claims presented or adjudicated by a state court, but also to claims that are "inextricably intertwined" with a state court court judgment. A federal claim is inextricably intertwined with A state court judgment if the federal claim succeeds only to the extent that the state court wrongly decided the issues before it. Siegel v LaPore, 234 F. 3d 1163, 1172 (11th Cir 2000)(en banc) (citations and quotations omitted). However, even if a claim is "inextricably interwined" with the state court's judgment the doctrine does not apply if the plaintiff had no reasonable opportunity to raise his federal claim in state proceedings. Powell v. Powell, 80 F. 3d 464, 467 (11th Cir. 1996) (quoting Wood v. Orange County, 715 F. 2d 1543, 1547 (11th Cir 1983). Goodman v Sipos, 259 F. 3d 1327, 1332 (11th Cir. 2001).Here, Plaintiff's amended complaint sets forth that the judiciary was "a tool of extortion" in taking Plaintiff's property. Doc. 16, p. 4. Plaintiff contends that Circuit Judge Costello conspired with Defendant Ball in selling plaintiff's land and in the foreclosure, 5. All of plaintiffs claims involve those state court proceedings and attacks results in those cases. This Court lack jurisdiction to review any of those proceedings. Any relief which may be provided to Plaintiff must come through Florida's court system.

Furthermore, Plaintiff has names a circuit court judge as a Defendant in this case. Plaintiff was previously informed that a judge is entitled to absolute immunity for damages under 1983 unless he or she acts in the "clear absence of all jurisdiction". Stemp v. Sparkman, 435 U.S. 349, 355-357, 98 S. Ct. 1099, 1104-05, 55 L. Ed 2d 331 (1978); Harris v. Deveaux, 780 F. 2df 911 (11th Cir. 1986). The Absence of jurisdiction does not mean the absence of authority. Rather it is when the acts of the judge are purely private and non-judicial. Henzel v. Gerstein, 608 F. 2d 654, 658 (5th Cir. 1980). Plaintiff's complaint against Defendant Costello is based on judicial rulings and these claims are barred.

Additionally, Defendant Angela Ball is not a state actor but is only a private attorney. This Defendant is not liable under 1983 because she is not acting on behalf of the state. Furthermore, Defendant Bay County is not liable for the actions of its officers as respondent superior is not available as a basis for the liability for violations of the federal constitution p pursuant to 42 U.S.C. 1983. Monell v. New York City Department of Social Services, 436 U.S. 658, 694, 98 S. Ct. 2018, 2036, 56 L. Ed. 2d 611 (1978); City of St. Louis v. Praprotnik, 485 U.S. 915, 108 S. Ct 915, 923, 99 Ed. 2d 107 (1988) and cases cited. A municipality may be held liable pursuant to 1983 only for acts which the municipality itself has officially sanctioned or ordered. Praprotnik, 108 S. Ct. at 924. In other words, a

plaintiff must "demonstrate that, through its deliberate conduct, the municipality was the "moving force" behind the injury alleged." Board of County Com'rs v. Brown, 520 U.S. 397, 404, 117 S. Ct. 1382, 1388, 137 L.Ed 2d 626 (1997). Plaintiff has presented no claims against the county which are the result of actions taken pursuant to policy, custom, or law and, thus, this case cannot proceed against the Defendant.

The final Defendant named here is Bay County Property Appraiser Rick Barnette. Plaintiff's only allegations against this Defendant is that he entered into the public records that plaintiff sold her land to another person for $70,000. plaintiff contends she did not do so and that this Defendant did not obtain Plaintiff's "consent to use her name". Plaintiff also asserts that this Defendant allowed another individual to "combine Plaintiff's land with his land, illegally, and place it on his government computer. At the same time Bay County Property Appraiser records showed plaintiff owned this land." Doc. 16, pp 7 and 9. Plaintiff has not shown the violation of a federal constitutional right. Plaintiff's challenge to the Property Appraiser's actions are intertwined with her claims concerning the ownership of her property. Those claims were resolved against Plaintiff in the state court case. The claims against this Defendant are frivolous and should be dismissed.

Plaintiff has failed to state a claim upon which relief may be granted. Plaintiffs claims are, moreover, barred by the Rooker-Feldman doctrine and this Court lacks jurisdiction to overturn rulings made in the state court of Florida. should Plaintiff desire to challenge any of those various decisions, her avenue of relief is in Florida's appellate courts, not this Court. This case should be dismissed.

In light of the foregoing, it is respectfully **recommended** That Plaintiff's amended complaint, doc 16, be dismissed sua sponte for failure to state a claim upon which relief may Be granted, for lack of subject matter jurisdiction, and because Plaintiff's claims are barred by the Rooker-Feldman doctrine.

IN CHAMBERS at Tallahassee, Floirda, on March 15, 2005. S/William C. Sherrill, Jr., US Magistrate Judge. Notice to all Parties - A party may file specific, written objections to the proposed findings and recommendations within 15 days after being served with a copy of this report and recommendations. A party may respond to another party 's objections within l0 days after being served with a copy thereof. Failure to file specific objections limit's the scope of review of proposed factual findings and recommendations.

APPENDIX 5

In the United States Court District Court for the Northern District of Florida Panama City Division
Case No: 5:04cv26-RH/WCS
Brenda Smith, Plaintiff
V.
Harold Bazzell, et al., Defendants
Order of Remand

This matter is before the court on the Magistrate Judge's Report and Recommendation (document 7), and the objections thereto (documents 9 and 10). I have reviewed de novo the issues raised by the objections. Upon consideration, IT IS ORDERED: The Report and Recommendation is ACCEPTED and adopted as the opinion of the court. This case is remanded t the Circuit Court, Fourteenth Judicial Circuit, Bay County, Florida. The clerk Shall take all action necessary to effect the remand and close the file. SO ORDERED this 3d day of March, 2005.
s/Robert L. Hinkle, Chief United States District Judge

APPENDIX 6

in the United States Court District Court for the Northern District of Florida Panama City Division
Case No: 5:04cv26-RH/WCS
Brenda Smith, Plaintiff
V.
Harold Bazzell, et al., Defendants
Order Denying Motion for Reconsideration

Plaintiff's Motion for Relief from Court Order (document 12) is DENIED. SO ORDERED this 10th day of March, 2005. S/Robert L. Hinkle, Chief United States District Judge

APPENDIX 6

In the United States Court District Court for the Northern District of Florida Panama City Division
Case No: 5:04cv26-RH/WCS
Brenda Smith, Plaintiff
V.
Harold Bazzell, et al., Defendants
Report and Recommendation

Plaintiff, proceedings pro se, initiated this action by filing what was titled as "notice to the state court and all parties I am moving this case to federal court due to the nature of the claims "arising under" the Constitution." Doc l. The document is construed as a petition for removal of a civil action from state court to federal court.

Plaintiff appears to be attempting to move a case to federal court, but the case she desires to move was initiated By Plaintiff in state court. The referenced case is number 04-2075, filed I n the Fourteenth Judicial Circuit of the State of Florida, in and of Bay County, Florida. Plaintiff Brenda Smith was the Plaintiff in the state court case and in this action and brought suit against Harold Bazzell and Thomas Mill. Doc. 1, p.8.

Because plaintiff was not a defendant in the state court Case, removal is improper. The statue governing removal, 28 U.S.C. 1441, provides.

Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending. For purposes of removal under this chapter, the citizenship of defendants sued under fictitious names shall be disregarded.

28 U.S.C. 1441(a) (emphasis added). By clear and unambiguous language, a defendant is permitted to remove an action filed against him or her. "No right exists in favor of a person who, as plaintiff, has filed an action in state court, to cause the removal of such action to a federal court." In re Walker, 375 F. 2d 678, 687 (9th Cir. 1967). Such a rule is well established. See, e.g. Chicago, Rock Island & Pacific Railroad v. Stude, 346 U.S. 674, 580, 74 S. Ct. 290, 295, 98 L.Ed. 317 (1954). Coastal Air Services, Inc v. Tarco Aviation Service, Inc, 301 F. Supp. 586 (S. D. Ga. 1969). Union Const. Co. v. Dillingham Corp., 334 F. Supp. 502, 503 (S.D. Tex. 1971); Geiger v. Arctco Enterprises, Inc, 910 F. Supp. 130, 131 (S.D. NY 1996). Plaintiff has the choice initially of whether to file her case in federal or state court and, having done so in 2004 and deciding to file her case in state court, see doc. 1, she cannot now switch to the federal forum.

Because this case is not removable under 1441(a), Plaintiff must return to state court if she in tends to proceed with litigation. This case must be remanded back to the Fourteenth Judicial Circuit.

CONCLUSION: Accordingly, it is respectfully RECOMMENDED that plaintiff's petition for removal doc. l, be DENIED, all other pending motions be DENIED, and this case be REMANDED back to the Fourteenth Judicial Circuit of the State of Florida, in and for Bay County, Florida. IN CHAMBERS at Tallahassee, Florida, on February 25, 2005. S/William S. Sherrill, Jr, US Magistrate. Notice to all Parties: A party may file specific, written objections to the proposed findings and recommendations within 15 days after being served with a copy of this report and recommendation. A party may respond to another party's objections within l0 days after being served with a copy thereof. Failure to file specific objections limit's the scope of review of proposed factual findings and recommendations.

APPENDIX A
WARRANTY DEED TO BRENDA SMITH 1993

FILE# 93-07692
BAY COUNTY, FLORIDA

** OFFICIAL RECORDS **
BK 1419 PG 499

Warranty Deed

(The terms "grantor" and "grantee" shall be construed to include genders and singular or plural as the contest indicates)

Made this 23rd day of February 1993, between **William E. Clark and Ellen A. Clark (his wife)** whose post office address is 7200 34th S9D, St Petersburg Florida 33711 of the County of Pinellas, State of Florida, grantor, and **Brenda Taylor-Smith aka known as Brenda W. Smith** , grantee, whose post office address is: P.O. Box 15453, Panama City, Florida 32406 of the county of Bay, State of Florida, grantee.

WITNESSETH: That said grantor, for and in consideration of the sum of $45,000 Forty Five Thousand Dollars, and

other good and valuable consideration to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said grantee, and grantee's heirs, successors and assigns, forever, the following described land, situate, lying and being in Bay County, Florida, to-wit:

Lot 7, in Block U, Unit 12 of Holiday Beach, a subdivision of a portion of Section 8, Township 4 south, R15 West, Per Plat Recorded in Plat Book 10 at page 94 in Public Records of Bay County, Florida.

50 x 120 ft lot recorded in Bay County Public Records Bk 656, P741.

Street Address: 7004 Thomas Dr., Panama City Beach, Florida.

Deed Doc. Tax Pd. $315.00
Mtg Doc Tax Pd $__-0-__.

Intangible Tax Pd. $ - 0 -
Harold Bazzel, Clerk, Bay County
By _____BH_____D.C.

and said grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all parties whatsoever.

IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal the day and year first above written. Signed, sealed, and delivered in Our Presence:

William E. Clark (signed) William F. North witness
William E. Clark (signed) (Seal)
(Please print or type name as it appears)
William E. Clark, Trustee UA 8-8-85 by William Clark

Ellen A. Clark (signed) Ruth Gillette witness
(Please print or type name as it appears) (signed) (Seal)
Ellen A. Clark

STATE OF
COUNTY Of

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgements personally appeared **William E. Clark and Ellen A. Clark (his wife)** to me known to be the person(s) described in and who

executed the foregoing instrument and acknowledged before me the execution of same.

WITNESS my hand and official seal in the County and State last aforesaid this 24 day of Feb.

My Commission Expires: Notary Public State of Florida
My Commission exp. Apr 7, 1995.

RCD: FEB 25, 1993 @ 9:44 AM
HAROLD BAZZELL, CLERK

RUTH GILLETTE (Signed)
Notary Public (Stamped Seal)
RUTH M. GILLETTE
(Please print of type name as it appears)

APPENDIX B
BANKRUPTCY DISCHARGE 1998

U.S. Bankruptcy Court for the Northern District of Florida
In Re a Petition for Relief under chapter 7 of Title 11, U.S. Code, filed by against the below-named Debtor(s) on December 2, 1997.
DEBTOR: BRENDA W. SMITH, SSAN: 247-72-9398
CASE: 97-02724

Certified true copy
Brenda L. Johns
(Seal) BRENDA L.JOHNS
MY COMMISSION EXPIRES:
June 22, 2001
Bonded through Notary Public
Underwriters

ORDER AND NOTICE BY THE COURT

DISCHARGE OF DEBTOR

It appears that the person named above filed a petition commencing a case under title 11, United States Code on the above date, that an order for relief was entered under Chapter 7, and that no complaint objecting to the discharge of the debtor was filed within the time fixed by the court (or that a complaint objecting to the discharge of the debtor was filed and, after due notice and hearing, was not sustained).

IT IS ORDERED THAT:

1. The above-named debtor is released from all dischargeable debts.

Any judgment heretofore or hereafter obtained in any court other than this court is null and void as a determination of the personal liability of the debtor with respect to any of the following:

(a) debts dischargeable under 11 U.S.C. Section 523;

(b) unless heretofore or hereafter determined by order of this court to be no dischargeable, debts alleged to be excepted from the discharge under clauses (2), (4) and (6) of 11 U.S.C. Section 523 (a);

© debts determined by this court to be discharged under 11 U.S.C. Section 523.

3. All creditors whose debts are discharged by this order and all creditors whose judgments are declared null and void by paragraph 2 above are enjoined from instituting or continuing any action or employing any process or engaging in any act to collect such debts as personal liabilities of the above named debtor.

(Signed) Lewis M. Killian Jr.
LEWIS M. KILLIAN, JR
Bankruptcy Judge

CLERK
BANKRUPTCY COURT
NORTH/DIST-FLA
TALLAHASSEE, FLA

1998 JUN 22 AM 11:05

U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF FLORIDA
DATE ENTERED ON DOCKET
6-22-98

FILED

SCHEDULE A - REAL PROPERTY

Except as directed below, list all real property in which the debtor has any legal, equitable, or future interest, including all property owned as a co-tenant, community property, or in which the debtor has a life estate, include any property in which the debtor holds the rights and powers exercisable for the debtor's own benefit, if the debtor is married, state whether husband, wife or both own the property by placing an "H," "W", "J", or "C" in the column labeled "Husband, Wife, Joint, or Community". If the debtor holds no interest in real property, write "None" under "Description and Location of Property".

If an entity claims to have a lien or hold a secured interest in any property, state the amount of the secured claim. See Schedule D. If no entity claims to hold a secured interest in the property, write "None" in the column labeled "Amount of Secured Claim".

DESCRIPTION AND
LOCATION OF
PROPERTY
7004 Thomas Dr., Panama City Beach, Fl 32408

NATURE OF DEBTOR'S INTEREST IN PROPERTY
Homestead

CURRENT MARKET VALUE OF DEBTOR'S INTEREST IN PROPERTY, WITHOUT DEDUCTING ANY SECURED CLAIM OR IN TEREST

$50,000

AMOUNT OF SECURED CLAIM

0

TOTAL DEBTOR'S INTERST IN PROPERTY

$50,000

APPENDIX C
DEFAULT JUDGMENT ENTERED ON BRENDA SMITH'S AMENDED COUNTERCLAIMS 2001

IN THE FOURTEENTH JUDICIAL CIRCUIT IN AND FOR BAY COUNTY, FLORIDA

BRENDA TAYLOR SMITH, PLAINTIFF VS BANK OF AMERICA, ANGELA BALL, T. BUCKINGHAM BIRD, CASE NO: 97-3063-CA

DEFAULT

A "Default Judgment" is hereby entered against NATIONSBANK, N.A. (SOUTH), A/K/A BANK OF AMERICA served Jan 19, 2001 at 01:31 for failing to file an "answer" on Brenda Taylor Smith's Amended Counter Claim. Florida Rules of Civil Procedure 1.500(a).

DONE this 14th day of February 2001.

(Signed) Jackie Kent
CLERK OF COURT.

(Seal) BAY COUNTY
CURCUIT COURT FLORIDA

Copies to: Angela M. Ball
Attorney for Bank of America
615 Jefferson St
Perry, Fl 32347

Brenda Taylor Smith
Pro Se
Post Office Box 15453
Panama City, Fl 32406

SEAL CIRCUIT COURT BAY
COUNTY FLORIDA
A CERTIFIED TRUE COPY
HAROLD BAZZEL CLERK
OF THE CIRCUIT COURT
By Stacey L. Williamson
Deputy Clerk

BRENDA TAYLOR-SMITH and
JESSE SMITH

Counter Plaintiff

FILED Jan 17 3 pm '01
Clerk of Court
Bay County, Florida

vs.

CASE NO: 97-3063-CA

BANK OF AMERICA,
ANGELA BALL, T. BUCKINGHAM BIRD

Counter Defendant
_____/

AMENDED COUNTER CLAIM

Counter Claim Plaintiff, BRENDA TAYLOR-SMITH, sues counter defendants, BANK OF AMERICA and ANGELA BALL, and alleges:

COUNT 1 - ANGELA BALL - Deception in violation of FDCPA 15 U.S.C. 1692e.

1. Counter plaintiff sues Angela Ball unde Debt Collections Deception Law. Defendant Angela Ball, attorney, debt collector for Bank of America, violated Fair Debt Collections Practices Act (FDCPA) 15 U.S.C. 1692e by use of false, deceptive, or misleading representations, attempting to "foreclose" by "creating a lien by dual contract." and a document with false representations on 31 August 2000, identified as follows:

Lot 7, in Block U, Unit 12 of Holiday Beach, a subdivision of a portion of Section 8, Township 4, South, R 15 East, per plat recorded in Plat Book 10, at page 94 in the Public Record of Bay County, Florida.

2. Exhibits "A" and "B" are attached respectively to show this property was bought by Taylor-Smith from the owners of the land William and Ellen Clark. The contract provided for Taylor-Smith to pay fair market value to the Clarks and she has fulfilled this obligation.

3. By Florida Statute, William and Ellen Clark (sellers) and Brenda Smith (buyer) had one year statue of limitations to bring an action for specific performance of the contract or an action to enforce an equitable lien. The contract was made in 1993 and any action now is "time barred".

- There was no mortgage deed to a trust as part of the contract. The agreement gave entitlement to payments to William and Ellen Cark carrying "right of survivorship" via "tenancy by the entireties property". The agreement prohibiting transferring the underlying obligation. The agreement prohibits binding the parties to any document not incorporated into the contract. Under Florida Constitution "states cannot impair contracts". There was no mortgage deed incorporated into the contract.

4. The federal Fair Debt Collections Act (FDCPA) provides that "(a) debt collector may not use any false, deceptive, or misleading representations or means in connection with the collection of any debt." 15 U.S.C. 1692(c). Yet deceptive threats are among the most common practices utilized by this attorney.

5. If Ms Ball had followed FDCPA notice requirements and given counter plaintiffs opportunity to respond - she would have known the lawsuits she was filing were countract and time-barred. If Ms Ball had followed FDCPA

a foreclosure action damaging credit of Brenda Smith and Jesse Smith would not have been filed.

6. Ms Ball knows issues have been raised with the validity of a Declaratory Judgment Action and was obtained through fraud, leaving out indispensable parties whose rights would be prejudiced, false representations, speculation and hypothetical facts.

COUNT 1- T. BUCKINGHAM BIRD - Making false representations in public record.

7. Mr Bird alleged Taylor Smith had "executed" a mortgage deed. This is a false statement. Ms Smith has never appeared before Mr Bird or given him power of attorney to say that. This would "void" Ms Smith's contract in violation of Florida law. This public record is "deception".

CAUSE OF ACTION AS TO BANK OF AMERICA

- This action alleges BANK OF AMERICA agents routinely filed lawsuits of briefs "vexations litigation" with at least 5 attorneys seeking to bury the Smiths and a small business in paperwork and legal fees, utilizing "bogus liens", attempting to "void" Taylor Smith's contract.

- Bank of America agents utilized this "routine" as a deceptive practice, misrepresenting, to gain property and funds to subsidize a corporation.

8. Taylor Smith sues Bank of America for holding her property "hostage" through vexations litigation tactics, clouding the property for 5 years and causing 5 years of physical and psychological abuse.

First Cause of Action - Unjust Enrichment

9. Brenda Taylor Smith has fulfilled her contract and paid "fair market value" for the land. Jesse Smith filed under uniform commercial code his intent to the the collateral for funds he paid to buy the land and improve it. There were no objections within the 30 days period and defendants were given notice. This was his homestead.

10. It would be unjust enrichment for the court to give Bank of America her property when funds were never disbursed to her to create a mortgage.

11. It would be unjust enrichment for the court to give Bank of America Jesse Smith's property rights that he paid for out of his retirement, including improvements like filling in "one half lost land", and homestead property rights.

Second Cause of Action - Creation of Trust Induced by Fraud causing harm to counter plaintiffs.

12. The property was never deeded to the trust. Section 1106a(3). Whereas the trust is controlled by the court - if an action prejudices the right of parties - the Code does not apply and the superseded laws apply. States cannot impair contracts. The trust should have honored Ms Smith's contract rather than trying to create a lien by "forgery" and "dual contract".

13. Prior to the Trust Code being enacted - Article I, Section 10, Florida Constitution forbids state law "impairing contracts". The Declaratory Action is not valid and would impair Taylor Smith's contract - and "void" it. This is prohibited under Florida law and the trust code. Section 1106(a)3.

14. The Supreme Court of Florida said in Smith vs. Hogan, Oct 25, 1934, prior to the Trust Code being enacted if a lien is disputed a Special Master can be appointed to take testimony. If the individual testifies that they have never appeared before a notary to acknowledge a document that document is "void" as a lien. The Florida legislature has since strengthened this law. A special master, with ties to Bank of America, filed a document in the public records making false statements, without a hearing, and Bank of America (the trust) filed to foreclose.

15. F.S. 1997, Chapter 713.31. Remedies in case of fraud and collusion. Bank of America attorneys have willfully exaggerated the amount owed under the contract. A willful exaggeration shall be deemed a fraudulent lien.

16. Florida Statue 1997, Chapter 95.231 Limitations where deed in on record. Five years after the recording of a deed...the deed shall be held to authorize the conveyance, the fee simple title to the real property, and all interests in it. Bank of America is time barred from proceeding.

17. Uniform Trust Code Section 1106(a) on "a right acquired" - that right continues to apply to that right. Taylor Smith acquired the right to be free from action time barred.

Third Count - Lawyers illegally obtaining private record through fraud and theft for commercial gain.

18. Taylor Smith wrote "void" across the mortgage deed and it did not close. NationsBank agent now Bank of America somehow got a copy of this document, added a notary acknowledgement that did not go with it, attempting to make it a genuine, altered it, recorded it, without Taylor Smith's knowledge or consent. This document has been used without authorization for commercial gain.

Count four - Tort - Interference with business relationship

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Count four - Tort - Interference with business relationship.

19. Taylor Smith made a contract with the Clarks - not the trust - or Bank of America. Florida law and Bay county case law says when you do not have a " duly recorded instrument" that case is dismissed. See Gerald R. Dunkle and Elmer J. Cook vs. Donald F. Nations, Bay County File 86-2040, Sep 22, 1986. Bank of America does not have a "duly recorded instrument" and continues to attempt to deprive me of the same treatment the male real estate broker received in this case. I am being targeted because of sex and sex discrimination leads to "hate crimes" like having an attorney file a document trying to take away your identify and act for you without consent, and then steal your property.

20. Bank of America attorneys know they do not have a "duly recorded instrument" and refuse to correct what they have done. They have hired five attorneys attempting to foreclose on a fraudulent document. In order to be binding upon sellers, documents must be lawfully filed and in conformity with state statutes. A legislative direction as to how a thing will be done is, in effect, a prohibition against it being done in any other way. The Supreme Court has interpreted Florida law and said when the individual does not appear before a notary and acknowledge the document this is "void" as a lien. Taylor Smith has been threatened by these attorneys.

JURISDICTION: The filing of "bogus liens", filing of

briefs/lawsuits "vexations litigation", misrepresentations like alleging the trust sold Taylor Smith the property when in fact the trust did not and never owned it, sex discrimination, hate crimes, deceptive practices, attempts to deprive counter plaintiff of her right to due process all happened in Bay County, Florida.

Section 42 USC Section 1983, Fifth and Fourteenth Amendments.

"every person who, under color of any statue...of any state.. causes to be subjected any citizen of the United States or person within its jurisdiction...deprivation of any rights ,,,secured by the Constitution and laws, shall be liable to the party injured in an action...for redress".

The Fourteenth Amendment to the Constitution guarantee all persons "equal protection of the law."

21. Exhibit "C" shows the Estate of William Clark was discharged 10/15/99 and there was no mortgage deed. This is evidence of "fraud" and "deception" by Bank of America attorneys - alleging they are representing the estate of Mr Clark.

22. Equitable theory of unjust enrichment. Bank of America attorneys have made money and been allowed to grow

utilizing private papers and property without the owner's consent. They have profited from their crimes.

23. Taylor Smith was forced into bankruptcy because of all the lawsuits and time and money spent defending her property. I claimed "homestead exemption" in bankruptcy under Article X, Section 4 of Florida Constitution. The surviving spouse who had all rights under the contract did not object to the fact I had fulfilled the contract. Discharge was granted June 1996 and the United States Supreme Court says this property is still exempt - and I am entitled to a fresh start. Bank of America attorneys have tried to deprive me of that - alleging they would "back off" if I give them money and property they are not entitled to - "extortion".

24. Bank of America and its lawyers are trying to graft onto it something that is not there. This we cannot do. We are not permitted to attribute to the legislature an intent beyond that expressed...or to speculate about what should have been intended...nor may we insert words or phrases in a constitution provision, or supply an omission that was not in the minds of the people when the law was enacted, (or a contract), The legislature, and in this case, the people who adopted the amendment, must be held to have intended what was so plainly suggested.

WHEREFORE, COUNTER PLAINTIFF prays this case

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WHEREFORE, COUNTER PLAINTIFF prays this court award actual damages under 15 USC 1692k to be paid by T. Buckingham Bird for the "deception" to cure the damage he has done.

WHEREFORE COUNTER PLAINTIFF prays this court award damages to be paid by Bank of America for the five years her property has been held hostage and the five years of physical and psychological abuse suffered from being subjected to lawsuits and threats to damage her reputation - burying her in paperwork and legal fees.

WHEREFORE COUNTER PLAINTIFF PRAYS the court will direct the Clerk of Court to "purge" from the public records the two "bogus lien attempts" unlawfully recorded in public records - and purge the Declaratory Action that is invalid (obtained through fraud upon the court and leaving out indispensable parties).

WHEREFORE COUNTER PLAINTIFF prays this court will award "punitive damages" to be paid by Bank of America in lieu of the time this has been allowed to go on against "senior citizens" destroying our life and health - 5 years - 5 attorneys - consistently misrepresenting, and using the power and influence of this big bank to deprive citizens of their lawful rights. "Forgery", "false

representations". and "threats" are RICO activity - and this was perpetrated against "complete strangers", the public, who had nothing to do with the trust or Bank of America.

JURY TRIAL DEMAND ON ALL ISSUES.

(Signed) Brenda Smith, Pro Se
PO Box 15453
Panama City, Fl 32406

Certificate of Service

I certify that a copy of the foregoing was mailed by Angela Ball, Post Office Box 754, Perry, Florida 32348, on 16 Jan 2001.

(signed) Brenda Smith

APPENDIX D

Deception -NationsBank had "no standing" to be before the court. The court had "clear absence of jurisdiction" 2003

The 2003 Florida Statutes

Title VIII Chapter 95

LIMITATIONS OF ACTIONS; ADVERSE POSSESSION

95.12 Real property actions. -- No action to recover real property or its possession shall be maintained unless the person seeking recovery or the person's ancestor, predecessor, or grantor was seized or possessed of the property within 7 years before the commencement of the action.

Affidavit

Declaration by Don Crisp. I received a subpoena to appear and testify in United States Bankruptcy Court to give evidence as a "disinterested professional". Brenda Smith wanted to get title insurance on the property she owned at 7004 Thomas Drive, Panama City Beach, Florida so that she could develop the property.

To Whom It May Concern

The property of Holiday Beach, Unit 12, Block U, Lot 7 was deeded from Holiday Beach Inc. to William E. Clark and wife Ellen A. Clark (tenancy by the entireties) on instrument recorded in Official Record Book 656, P71 and dated 14 Nov 1977. In 1993 the same parcel of land was deeded from William E. and his wife Ellen A. Clark to

Brenda Taylor Smith aka Brenda W. Smith on Warranty Deed recorded in Official Records Book 1419, P499 and dated 23 Feb 1993.

The parcel of land has been assessed to Brenda Taylor Smith since 1993 to 2003. The parcel number on the Bay County Tax Roll is 30804-015-000. In 1993 the property was claimed "homestead".
DRC initials written in. This property has not been deeded to anyone including Nations Bank since the Deed to Brenda Taylor Smith aka Benda W. Smith. There was no mortgage recorded in public records with a notary acknowledgment executed by Brenda Smith and/or her husband Jesse Smith. Title Insurance for the sale of the property or for borrowing money on the title could not be issued without an exception for the cloud on the title caused by the suit by NationsBank.

"s/Don Crisp"
STATE OF FLORIDA NOTARY PUBLIC
(Notary Seal) Robin L. Brannon My Commission Expires 6/6/2003 No. CC 843432 Personally Known

STATE OF FLORIDA COUNTY OF BAY
The foregoing instrument was acknowledged before me this 8th day of APRIL 2003, by Donald R. Crisp who is personally know to me. (signed) Robin L. Brannon

APPENDIX E
DEPOSITION OF ELLEN CLARK 17 Nov 1997

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA IN AND FOR BAY COUNTY
NATIONSBANK, N.A. (SOUTH), SUCCESSOR TRUSTEE OF THE WILLIAN E. CLARK TRUST, Plaintiff vs. BRENDA TAYLOR-SMITH, Defendant Case No. 06-2820, Deposition of Ellen Clark, Taken By The Defendant Herein, Before Julie Haley, Court Reporter, Notary :Public, State of Florida at large. Date: November 7, 1997, Commencing at 9:00 p.m
APPEARANCES: SADIE MOORE STEWART Esquire, 2035A Lewis Turner Blvd, Ft Walton Beach Florida 32547. Appearing for defendant.
APPEARANCES BAYA HARRISON Esquire Appearing for the plaintiff.

Q. Mrs Clark, did you ever sign any papers giving your interest in that property to NationsBank?
A. I don't know what you mean, did I give it to anybody?
Q. We know you signed with Brenda Smith but did you give NationsBank any papers giving NationsBank your interest in that property after Mr Clark died?"
A. No.

S/Julie Haley, Court Reporter, Nov 7, 1997

APPENDIX F
IDENTITY THEFT, ILLEGAL POSSESSION

Bay County Property Appraiser Rick Barnette
Owners Name Owners Address
Clark, Helen Marie, etal 7004 Thomas Drive

Land Value $23,017 Just Market Value $23,017 Taxable Value $23,017
Sales Information OR/Book/Page 2377/398
Sale Date 07/18/2003, Sale Price $70,000
Instrument Certificate of Title
Grantor Brenda Taylor-Smith (CLERK OF CT)
Grantee Helen Marie Clark etal (8 owners)

5/27/2004 Legal Description 7004 Thomas Drive
Clerk, Helen Marie etal Land $23,017
Holiday Beach, Unit #12, Lot 7, Blk U
ORB 1419 P499 ORB 2377 P398
++++COMBINED WITH #30804-010+++++ 4/01/2004

APPENDIX G

The Warranty Deed established Brenda Smith's ownership, prior title. The deed wasn't transferable - it was only useful to her.

Bay County **Property Appraiser Records**, on-line, Saturday, **May 29, 2004**, Parcel Number 30804-015-000, **Owners Name** Taylor-**Smith, Brenda**, Address 7004 Thomas Drive, Panama City Breach, Florida 32406.

Bay County **Tax Collector Records**, 15 **Oct** 2004,On-line, Property Information, Holiday Beach, Unit #12, Blk U, **Owner** Information **Brenda Smith**, PO Box 15453, Panama City, Florida 32406

APPENDIX H

Witness Statement - the government would not let Brenda pay her own taxes on her land and assessed to her

Attn: Brenda Smith, Jan 14. 2005

I Rose Urquhart went with Mrs Brenda Smith on Oct 15, 2004 to the Bay County Property Tax Office. She went to pay her taxes on her property at 7004 Thomas Drive, Panama City Beach, Fla. They Refused to let her pay her taxes on that day.
Thanks

"s/: Mrs Rose Urquhart"
6907 Beach Drive
Panama City Beach, Florida 32401

Witness "s/ Rudolph Urquhart"
01/14//06

APPENDIX I

PUBLIC NOTICE OF IDENTITY THEFT BY THE COURTS

In the public records there is a statement by the Courts that I signed a mortgage and note for property at 7004 Thomas Drive, Panama City Beach, Florida. I have never signed a mortgage or note for that property. It is an attempt by a rogue bank to slander my name and steal my IDENTITY. Anyone helping the bank is equally guilty of Identity Theft. This includes the attorneys for the Bank, the Clerk of Court for allowing the instrument to filed without Notarization, te Judges do not read the evidence that clearly shows That I have never signed any note or mortgage.

(signed) Jesse C. Smith Jr.

The foregoing statement was sworn to and subscribed before me this 18 day of July 2003. Signature of person taking the acknowledgment (signed) Janifred Peacock My Commission # 972694 Expires Oct 4, 2004.

Filed with Harold Bazzell, Clerk of Court, 18 July2003. (Seal)

APPENDIX J

EVIDENCE OF UNWARRANTED INFLUENCE -
VIDEO DEPOSITION TAKEN FROM THOMAS MILLER
DEFENDANT ii-22-04. Video Productions (850) 785-3364

Brenda Smith is asking Thomas Miller questions under oath.

Q. How does the maintenance of controversy fit into the market place? Is it fair to say it could stop somebody from developing their property to keep a controversy going?

A. Right now you are impeding me from doing what I want to do with that property. If I want to resell that property you have a Judgment against it....so if this pans out that the title that I have is free and clear...from doing what I want to do with my property legally my property as we speak. Until the Judge says Mr Bazzel or someone else acted illegally.. I have free and clear title to the property, and I will by the (bleap) rights of the land do what I seem fit with it and within the laws limits.

Q. Did you go on 7004 Thomas Drive and destroy shrubbery and Italian cypress trees.
A. I improved my property.

Q. Did you do excavation?
A. I had a contractor grade.

Q. Did you have Ms Smith's consent?
A. I don't need it. I own the property.

Q. Do you know who took the real estate sign off the property?
A. I do not.

Q. Do you do business with banks outside the United States of America?
A. No, I do not.

Q. Public records show you have dealings with the Deutsch Bank and getting mortgages. Are you saying public records are not correct?
A. I believe I had a boat loan that has since been paid off.

Q. Were you advised that you are trespassing on Ms Smith's land?
A. You felt I was. I told you I had legal deed to the property.

Q. Have you ever received a Default in county court?
A. Not to my knowledge.

Q. Somebody went to the Property Appraiser's office and combined my property at 7004 Thomas Drive with your property at 7006 Thomas Drive. Did you do that?
A. Yes.

APPENDIX K

VIDEO DEPOSITION TAKEN OF HAROLD BAZZEL, CLERK OF COURT

Questions are being asked by Brenda Smith on 11-22-04. Video by Bill Hudson, Video Productions, (850) 785-3364.

Q. So is it your testimony that anybody that walks in to file anything, you will allow that to be recorded?
A. We do that everyday.

Q. In looking at the alleged mortgage filed on Brenda's land. Did the notary say Brenda Smith acknowledged that document?
A. I don't see where it says that.

Q. How did that document get on the internet?
A. We put all our documents that have been recorded on the internet.

Q. I wrote a letter to you 31 Mar 1997 asking you to purge from public records an alleged mortgage that was not lawfully recorded against my property. Did you purge that document from public records?
A. No.

APPENDIX L
DECEPTION, DISSIMULATION, AND DISINFORMATION TO GET ADVERSE TITLE *FROM BRENDA SMITH WITHOUT COMPENSATION*

The 2005 Florida Statutes, Title VIII, Chapter 95, Limitations of Actions; Adverse Possession
95.18 Real property actions; adverse possession without color of title.

(1) When the occupant or those under whom the occupant claims have been in actual continued occupation of real property for 7 years under a claim of title exclusive of any other right, but not founded on a written instrument, judgment, or decree, the property actually occupied shall be held adversely if the person claiming adverse possession made a return of the property by proper legal description to the property appraiser of the county where it is located within 1 year after entering into possession and has subsequently paid all taxes and matured installments of special improvement liens against the property by the state, county, and municipality.

(2) For the purpose of this section, property shall be deemed to be possessed in the following cases only:
(a) When it has been protected by substantial enclosure.
(b) When it has been usually cultivated or improved.

Appendix M

United States Bankruptcy Court
Northern District of Florida Panama City Div.
IN RE;
BRENDA W. SMITH a/k/a
BRENDA TAYLOR SMITH,
Debtor(s),

CASE NO 97-02724PCY5
CHAPTER 7
Adversary Proceeding
No. 98-90015

NATIONS, N.A. (SOUTH)
Sucessor Trustee of the Extate
Of William E. Clark
Plaintiff(s)

Vs.
BRENDA W. SMITH a/k/a
BRENDA TAYLOR SMITH,
Defendant

NOTICE OF VOLUNTARY DISMISSAL

COMES NOW ANGELA M. BALL, the attorney for the Plaintiff, and hereby files this Notice of Voluntary Dismissal of the Motion of Plaintiff, Nationsbank, N.A., to Abate Action for Determination of Dischargeability dated May 14, 1998, and the Amended Complaint for Determination of Dicchargeability dated May ll, 1998.

Dated this 2nd day of March, 2004.

a/Angela M. Ball, Attorney at Law
615 N. Jefferson St. Perry, Fl 32347
(850) 584-8960 FL BAR 0796557